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17 PATRICIA RACELIS

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UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

PATRICIA RACELIS,

Plaintiff,

vs.

EAST BAY INTEGRATED CARE, INC., dba  
HOSPICE OF THE EAST BAY, and DOES 1 to  
25, inclusive

Defendant.

Case No.: C 14-01301 PJH

**JOINT STIPULATION TO DISMISS  
WITHOUT PREJUDICE CERTAIN OF  
PLAINTIFF'S CLAIMS AND TO AMEND  
FIRST AMENDED COMPLAINT  
ACCORDINGLY; [PROPOSED] ORDER  
[FRCP 41(a)(2) and 15(a)]**

1<sup>st</sup> Amended Complaint Filed: February 11, 2014  
Contra Costa Case No.: MSC 13-02197  
Trial Date: To be determined

1 Plaintiff Patricia Racelis (“Plaintiff”) and Defendant East Bay Integrated Care, Inc., dba  
2 Hospice of the East Bay (“HEB”), by and through their respective counsel of record, hereby stipulate  
3 that the following claims in Plaintiff’s First Amended Complaint will be dismissed without prejudice  
4 and that, by force of this stipulation and Order, Ms. Racelis’ First Amended Complaint will be  
5 amended as follows:

6 1. Plaintiff’s Third Cause of Action for failure to pay overtime under the FLSA is dismissed  
7 without prejudice;

8 2. Plaintiff’s Eleventh Cause of Action for failure to provide reasonable accommodation  
9 under the ADA is dismissed without prejudice;

10 3. Plaintiff’s Twelfth Cause of Action for retaliation and discrimination on the basis of  
11 disability under the ADA;

12 4. Plaintiff’s Thirteenth Cause of Action for retaliation and interference will be amended to  
13 remove and dismiss, without prejudice, Plaintiff’s claims under the FMLA, 29 U.S.C. §§  
14 2601, et seq., 2611(4)(A)(ii)(i), 2617(a)(1)(A)(iii), and 29 CFR § 825.104(d) but the  
15 portions that rely on California law will continue as part of the lawsuit; and

16 5. Plaintiff’s Prayer for Relief at sections 7 and 10 will be amended to eliminate reliance on  
17 the FLSA, FMLA and ADA, without prejudice;

18 Therefore, Plaintiff’s First Amended Complaint, filed in Contra Costa County Superior Court  
19 on February 11, 2014 and removed to this court by HEB on March 20, 2014 shall be deemed so  
20 amended by this Order.

21 Because this amendment limits existing claims but does not add any new claims, HEB’s  
22 currently operative Answer, filed in Contra Costa County Superior Court on March 20, 2014, shall  
23 continue to be its currently operative Answer.

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1 IT IS SO STIPULATED.  
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3 DATED: April 29, 2014

4 OGLETREE, DEAKINS, NASH, SMOAK &  
5 STEWART, P.C.

6 By: /s/  
7 ERICA K. ROCUSH  
8 Attorneys for Defendant  
9 EAST BAY INTEGRATED CARE, INC.  
10 dba HOSPICE OF THE EAST BAY

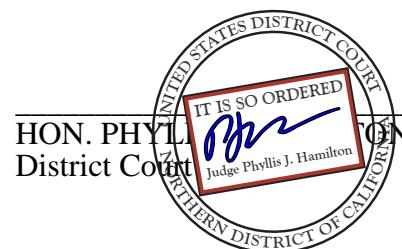
11 LAW OFFICES OF RICHARD J. VAZNAUGH

12 By: /s/  
13 RICHARD J. VAZNAUGH  
14 Attorney for Plaintiff  
15 PATRICIA RACELIS

16 **[PROPOSED] ORDER**

17 **PURSUANT TO STIPULATION AND FOR GOOD CAUSE, IT IS SO ORDERED.**

18 Dated: 5/27/14



HON. PHYLLIS J. HAMILTON  
District Court